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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/577,523

06/29/2006

Joseph Clochard

0540-1046

7467

466

7590

03/06/2008

YOUNG & THOMPSON

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EXAMINER

SELF, SHELLEY M

ART UNIT

PAPER NUMBER

3725

MAIL DATE

DELIVERY MODE

03/06/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/577,523	<b>Applicant(s)</b> CLOCHARD, JOSEPH	
	<b>Examiner</b> Shelley Self	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/28/06</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains legal phraseology such as "*comprising*", "*comprises*" and "*means for driving...*" such legal phraseology should be avoided in the Abstract. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claims 1 and 7, the recitation, "it" renders the claim vague.

Examiner suggests clear and positive recitation of what "it" refers. Clarification is required.

With regard to claim 4, there is no antecedent basis for the recitation, "each ratchet", Examiner notes claim 4 appear to depend from claim 3 and is understood as such for the purposes of examination. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 7 as best as can be understood are rejected under 35 U.S.C. 102(b) as being anticipated by Merwin (1,319,656). Merwin discloses an operating device for the controlled swinging of a portion of a cut tee trunk comprising at least one slot (13) characterized in that the operating device comprises a body (7) provided with a screw thread (fig. 1), a head (9) movable in rotation relative to the body means for driving the body (10) by the head (9).

With regard to claim 2 as best as can be understood, Merwin discloses a conical shape (fig. 1).

With regard to claim 7 as best as can be understood, Merwin discloses a handle (10).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

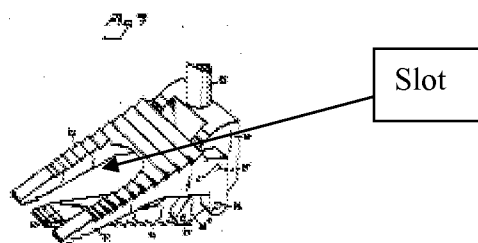
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

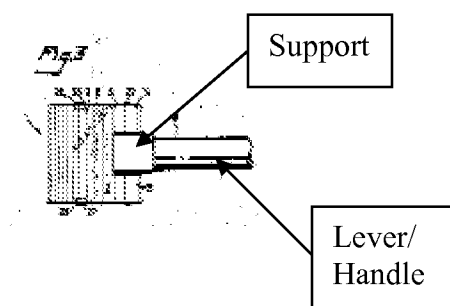
Claims 1-8 as best as can be understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson (4,130,270) in view of Merwin (1,319,656). With regard to claim 1-4, and 8, Andersson discloses an operating device for the controlled swinging of a portion of a cut tee trunk comprising at least one slot (fig. 7) characterized in that the operating device comprises a body (fig. 7), a head (65) movable in rotation relative to the body (via shaft 67) means for driving the body (fig. 1, 6, 7) by the head (65), a conical shape (see figures), notches (col. 2, lines 52-56, at least one ratchet (28,29).

Andersson does not disclose threads. Merwin teaches as noted above the use of screw threads to efficiently provide force for pushing/tilting. Because the references are from a closely related art and deal with a similar problem, i.e., wedge surface used to apply force to an object it would have been obvious to the skilled Artisan at the time of the invention to replace Andersson's ridges/teeth with threads so as to efficiently provide a force for pushing as taught by Merwin. Likewise it would have been equally obvious at the time of the invention to replace Merwin's threads with ridges/teeth as taught by Andersson for efficient force.



With regard to claim 4, Andersson does not explicitly disclose a bevel. It would have been obvious to the skilled Artisan at the time of the invention to construct Andersson having a bevel because altering/determining the optimal shape is not non-obvious and requires only routine skill in the art. Further, Applicant has not positively recited any criticality to the use of a bevel. Accordingly in the absence of any positively recited criticality to the ratchet having a bevel, such shape selection does not in itself warrant patentability and is a mere obvious design expedient.

With regard to claim 5 as best as can be understood, Andersson disclose the ratchet connected in a support and movable a between two positions 80° apart. Examiner notes the elements of Andersson are all connected, therefore because the ratchet is connected to a support (fig. 3), which is rotatable, therefore movable between positions 80° apart. Examiner further notes the claim as written does not define the ratchet to be directly connected to the support or to prohibit any intermediary structure.



With regard to claim 6 as best as can be understood, Andersson discloses a lever (19).

With regard to claim 7 as best as can be understood, Andersson discloses a handle (3).

### *Conclusion*

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is 571-272-4524. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shelley Self/  
Primary Examiner, Art Unit 3725

February 27, 2008